



W.P.No.13925 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 04.11.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13925 of 2016

and

W.M.P.Nos.34361 and 12196 of 2016

A.Reethamary

...Petitioner

vs.

1. The Additional Chief Secretary /
Commissioner of Land Administration,
Ezhilagam,
Chepauk,
Chennai – 600 005.

2. The District Collector,
Tanjore District,
Tanjore.

3. The Tahsildar,
Budalur Taluk,
Tanjore District,
Tanjore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records on the file of the first respondent relating to the proceedings dated 21.03.2016 in G2/10549/2015 and quash the order passed therein.



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For petitioner : Ms.V.J.Latha

For Respondents : Mr.U.Bharanidharan
Additional Government Pleader

ORDER

This writ petition has been filed seeking for issuance of a Writ of Certiorari to quash the proceedings of the first respondent in G2/10549/2015 dated 21.03.2016.

2. The case of the petitioner is that the petitioner is in possession and enjoyment of the property comprised in S.No.14/2 to an extent of 0.00.5 Hectares situated in Maranery Village, Thanjavur District and Taluk, Tanjore and the same is classified as “Mandhai Poramboke”. However, based on the G.O.Ms.No.168, Revenue, LD.(1(2) Department, dated 27.03.2000, the petitioner applied for issuance of patta, but the same remained unanswered. Further, the third respondent in the year 2002, issued a notice directing the petitioner to vacate the above said property. While so, the petitioner's husband filed a writ petition before this Court in W.P.No.35112 of 2002, wherein this Court vide order dated 11.09.2002



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directed the second respondent to dispose of the petitioner's application, pursuant to which, the second respondent vide order dated 08.03.2004 refused to grant patta in favour of the petitioner since the above said land is classified as “Mandhai Porambokke”. Challenging the same, the petitioner's husband filed a writ petition in W.P.No.31401 of 2005, wherein this Court vide order dated 28.09.2005 disposed of the same, with a direction to the petitioner to file an appeal before the first respondent. While so, the petitioner filed a Revision Petition before the first respondent, for which, the first respondent vide proceedings dated 21.03.2016, dismissed the claim of the petitioner holding that the petitioner is not a landless poor since her husband encroached the portion of land which is classified as “Mandhai Porambokke” which is abutting the patta land and that the said land is required for usage of general public. Challenging the same, the present writ petition is filed seeking the aforesaid relief.

3. Learned counsel appearing for the petitioner submits that admittedly the petitioner encroached the above said property, however, as per the above said G.O. the residents who are residing for more than 10



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years in the Government Poramboke land which include watercourse, mandhaveli, meikkal mayanam etc., and where the said land is not required for the use of Government, the same has to be converted into Natham land. Though the petitioner and her husband are in possession of the above said land for more than 5 decades, without considering the aforesaid G.O., the first respondent mechanically rejected the claim of the petitioner's husband which is not sustainable. Hence, the impugned order passed by the first respondent cannot be allowed to subsist. Accordingly, he prayed for passing appropriate orders.

4. The learned Additional Government Pleader appearing for respondents 1 to 3 submitted that as per the guidelines issued in the aforesaid G.O., the land which is not under the usage and when the land is not required for the use of Government, a committee consisting of District Collector, and other authorities has to conduct field inspection and after obtaining the resolution from the Local Bodies, can regularize such occupation on the Government Porambokke lands subject to the fulfillment of the conditions. Here in the case on hand, the land involved in dispute is



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classified as “Mandhai Porambokke”, which belong to objectionable category. Moreover, the local body passed a resolution against the grant of patta for the said land and sought for eviction of all such encroachments. Hence, as per the guidelines laid down in the aforesaid G.O., the claim of the petitioner was rejected, which is in accordance with the provisions of rules in force. Hence the impugned order needs no interference of this Court and this writ petition deserves to be dismissed.

5. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

6. Admittedly, as per the aforesaid G.O. when any Government Porambokke land is in possession of any person for more than 10 years and if the said land is not required for the usage of Government, a Committee consisting of District Collector and other authorities after conducting filed inspection and obtaining resolution from the local body can regularize such occupation subject to certain conditions, whereas in the present case on hand, the concerned local body has passed a resolution dated 03.01.2002



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against the assignment of land in favour of the individuals and to clear the said encroachment. Since the resolution having been passed by the concerned local body, the claim of the petitioner cannot be considered in the light of aforesaid G.O.

7. Moreover, the aforesaid property is classified as “Mandhai Porambokke” which is covered under the objectionable category which cannot be alienated in favour of third parties and it is evident from the impugned order that the petitioner is in possession of the patta land in S.No.15/8B which is adjacent to the aforesaid “Mandhai Poramboke” land, and the petitioner cannot be termed to be a landless person. Hence, the impugned order passed by the first respondent is perfectly in order and requires no interference. For the reasons aforesaid, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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RAP

Index : Yes/No

Speaking order : Yes/No



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M.DHANDAPANI, J.

RAP

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